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November 3, 1999

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: Application of Bell Atlantic for Authority to Provide  
In-Region InterLATA Services in New York  
CC Docket No. 99-295**

Dear Ms. Salas:

Pursuant to Section 1.1206 of the Commission's rules, Net2000 Communications, Inc. ("Net2000"), by its undersigned counsel, hereby gives notice that on November 2, 1999, its representatives met with Andrea Kearney, Julie Patterson, Anthony Dale, and Whitey Thayer of the Common Carrier Bureau; Claudia Pabo, Johanna Mikes, Daniel Shiman, Eric Einhorn, John Adams and John Stanley of the Common Carrier Bureau's Policy Division; and Renee Terry, Deborah Ramirez and Raj Kannan of the Common Carrier Bureau's Pricing Division. Representing Net2000 were Peter Callowhill, Jason Karp, Anthony Hansel, and the undersigned.

Ms. Magalie R. Salas  
November 3, 1999  
Page 2

In the meeting, Net2000 expressed its concerns regarding Bell Atlantic's excessive termination penalties. In addition, Net2000 stated that the Commission must implement strong anti-backsliding measures and make fresh look opportunities available to consumers in the event that it grants 271 authority to Bell Atlantic. In accordance with Section 1.1206(b), an original and one copy of this notice, along with a copy of Net2000's presentation is being provided.

Sincerely,

A handwritten signature in black ink, reading "Ross A. Buntrock". The signature is written in a cursive, flowing style.

Ross A. Buntrock

cc: FCC staff listed above  
Dee May, Bell Atlantic (w/ attachment)



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**Net2000 Communications**  
***Ex Parte* Presentation**

*Application by Bell Atlantic-New York for Authorization to Provide In-Region, InterLATA Services to New York*

**CC Docket No. 99-295**

Peter Callowhill, Jason Karp, Anthony Hansel  
*Net2000 Communications*

Ross Buntrock  
*Kelley Drye & Warren LLP*

**November 2, 1999**

# Overview

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- Introduction Net2000
- Excessive ILEC Termination Penalties
- Fresh Look Period
- Anti-backsliding Remedies
- Enhanced Extended Link

# Who is Net2000?



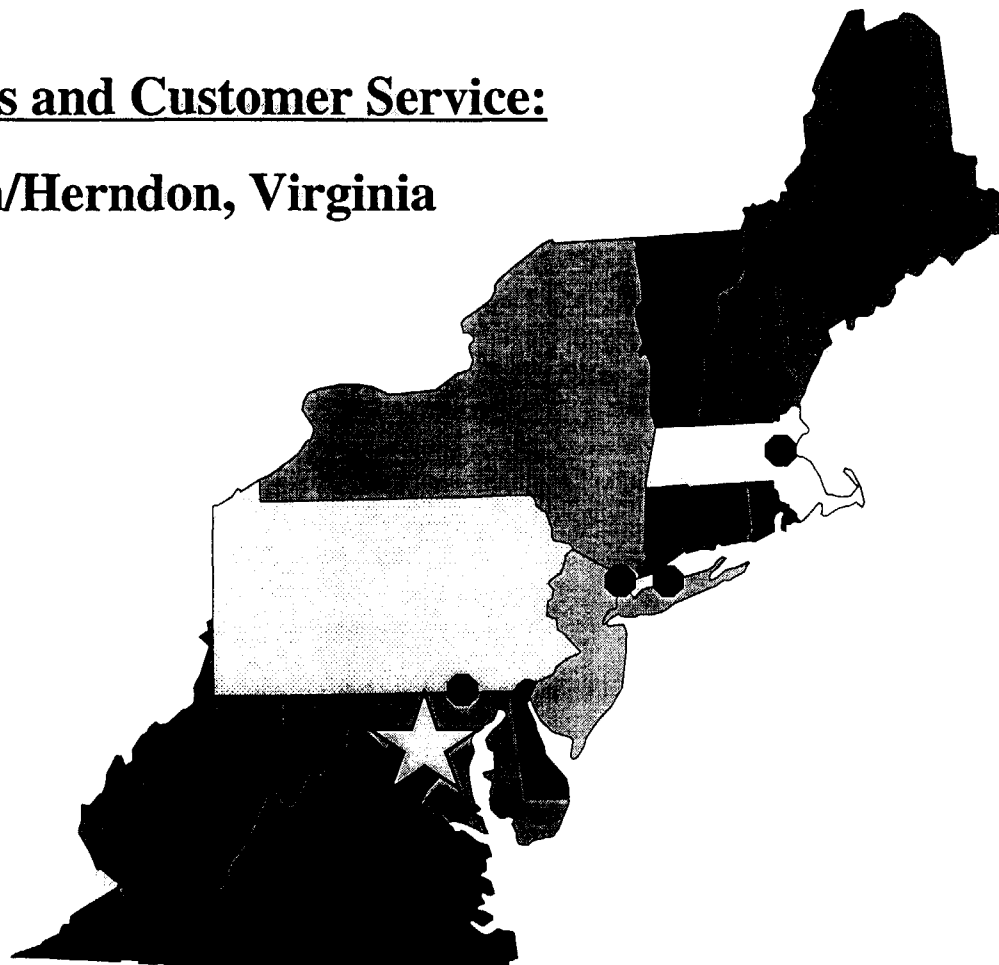
- Fast Growing Integrated Communications Provider
  - Provisioned over 150,000 access lines as Bell Atlantic's number one sales agent
  - Experience selling voice and data (35% of access lines are for data services)
  - User friendly, responsive interface
- Present Lines of Business
  - Local Exchange Services (primary focus)
  - Advanced Data Services
  - Long Distance Services
  - Internet Services
- Experienced Management Team
- 5 Year Operating History
- Over 2,500 Customers (\$200M Revenue) - provisioned as Bell Atlantic agent

# Operating Markets



## Headquarters and Customer Service:

McLean/Herndon, Virginia



## Sales Offices

- Boston, MA
- Providence, RI
- New York, NY
- Long Island, NY
- Baltimore, MD
- Richmond, VA
- Virginia Beach, VA
- Will open new offices with network expansion

# Net2000 Network Deployment

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- Net2000 will be offering local and long distance voice services utilizing Nortel DMS 500 switches
- Net2000 has completed deployment of Nortel DMS 500 switches in Washington, Baltimore & Richmond/Virginia Beach
- Net2000's DMS 500 network is under construction in New York, Boston, Philadelphia & Wilmington which we expect to complete by May 2000

# Net2000 Network Deployment

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- Net2000's ATM backbone will utilize Nortel's next generation Passport data switch as part of an overall voice and data convergence strategy
- Net2000 has installed Nortel Passport data switches with an ATM backbone between Boston, New York, Long Island, Baltimore, Washington & Richmond/Virginia Beach
- Additional data switching centers are under construction in Newark and Wilmington



# “Smart Build” Strategy

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- Install Nortel DMS 500 switch in each local market served
- Lease ILEC transmission facilities, including interoffice transport, loops, and multiplexers
- Interconnect with ILEC tandems and IXC POPs
- Replace ILEC facilities with Net2000 or competitive facilities as the market develops
- Generally rely on ILEC special access facilities to reach customer -- plan to shift to UNEs as regulations permit

# **Excessive ILEC Termination Penalties and Fresh Look**

# Excessive ILEC Termination Penalties

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- Bell Atlantic continues to impose unreasonable restrictions through the imposition of punitive contract penalties
- Bell Atlantic has seized absence of widespread competition in New York to exercise monopoly power and bind customers in long-term contracts
- Many customers have expressed a desire to take advantage of savings offered by competition but termination penalties associated with current ILEC contracts render that option too expensive
- Customers cannot realistically terminate “take or pay” contracts to migrate to a competitor since they will be charged for the services through unreasonable penalties

# Excessive ILEC Termination Penalties

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- Only firms with market power can systematically require excessive termination penalties
- Since Net2000 does not have market power, Net2000 offers varying term agreements each having substantial discounts for longer terms and no term serving longer than 3 years
- Customers will not allow new local service market entrants to impose the “take or pay” termination liability that Bell Atlantic continues to impose as a result of monopoly power .

# Fresh Look Period

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- The Commission should:
  - deny the application and delay grant of Section 271 authority until it has reviewed Bell Atlantic's termination liability practices and put corrections in place
  - condition any future grant of Section 271 authority on Bell Atlantic corporate officer's certification that it will refrain from enforcing any unjust or unreasonable contract termination penalties
  - impose a "fresh look" period to give existing customers of Bell Atlantic the opportunity to compare current service with new alternatives without incurring any unreasonable penalties

# Anti-backsliding Remedies

# Anti-backsliding Remedies

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- Remedies to ensure pre-and post-Section 271 compliance with performance benchmarks must be severe enough to deter deficient performance
  - Financial penalties imposed by the NYPSC Performance Assurance Plan and Amended Change Control Assurance Plan are insignificant when compared to Bell Atlantic's billion dollar revenue flows
- Remedies must be certain and administered immediately
  - Any delay in imposition of adequate damages will provide Bell Atlantic with additional opportunities to block their enforcement as well as continue to provide substandard levels of service
- Bell Atlantic corporate officer's certification that it will meet performance measurements

# Anti-backsliding Remedies

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- Tiered approach to monetary remedies for RBOC noncompliance
  - Baseline remedy paid to individual CLEC for failure to provide nondiscriminatory service and support (charges specified on a per metric basis)
  - Escalation of remedies for greater deviation from specified performance benchmarks
  - Aggregate market suppression remedies as a whole for a pattern of substandard ILEC performances
- Performance remedies encompassing suspension of 271 authority and revocation of 271 authority
- The development of benchmark details and remedies should be addressed in a follow-on Commission proceeding



## **Enhanced Extended Link (EEL)**

# Enhanced Extended Link (EEL)

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- Grant of Section 271 authority must be conditioned on Bell Atlantic corporate officer certification that it will comply with requirements of Commission EEL policy; and
- Commission should preempt any contrary New York law or requirement that restricts competitor access to EELs